

# Minutes of a Regular Meeting

Approved 3/16/06

## Town of Los Altos Hills PLANNING COMMISSION

THURSDAY, FEBRUARY 16, 2006, 7:00 p.m.

Council Chambers, 26379 Fremont Road

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cc: Cassettes ( 2 ) #3-06

### 1. ROLL CALL AND PLEDGE OF ALLEGIANCE

The regular meeting of the Planning Commission was called to order at 7:00 p.m. in the Council Chambers at Town Hall.

Present: Chairman Cottrell, Commissioners Carey, Kerns, Collins & Clow

Staff: Planning Director Carl Cahill; Project Planner Leslie Hopper; Assistant Planner Brian Froelich; Planning Secretary Lani Smith

### 2. PRESENTATIONS FROM THE FLOOR-none

### 3. PUBLIC HEARINGS

- 3.1 LANDS OF GRAHAM, 2344 Old Page Mill Road (238-05-ZP-SD); A request for a Site Development Permit for a 682 square foot addition and major remodel including 236 square feet added to the second story (no proposed change to the height of the building). The project includes alterations to the existing driveway. The applicant also requests a minimum setback of 10' from the top of Matadero Creek bank where 25' is the minimum per Section 10-2.702 (e) of the Site Development Code. CEQA status-Categorically Exempt per 15301(e) (staff-Brian Froelich);

Staff introduced this item by reviewing the staff report regarding the size of the property, Old Page Mill Road access on a 10 foot wide joint driveway that is shared with the property owner at 2300 Old Page Mill Road with the applicants having rights for egress and ingress. He further discussed the current development on the site with Matadero Creek running south to north right through the center of the property. The Section being reviewed is 10-2.705-Siting (setbacks). He discussed the first floor level addition proposal totaling 446 square feet. He reviewed the areas (additions) nearer to the creek setback (deck, bay window, floor area). The second story addition totals 236 square feet which includes a bathroom and master bedroom closet addition. There is a storm drain easement on the property established with the subdivision. The Water District has reviewed this proposal and has issued a permit (Attachment 2) subject to specific conditions. Staff is recommending approval for the project with the condition that the property owner grant an open space easement to the east side of Matadero Creek that would measure 25 feet wide from top of bank. The owner has requested that the Commission omit this condition of approval. Staff's position is that this is found in the General Plan specifically Principle 306.1. Another issue is the circulation on the site. Due to the change to the garage, the garage doors

would now face west; the existing doors faced north. This is an intensification of a non-conforming driveway in the setback. Staff has recommended that the non-conforming driveway be reduced to the minimum required. Also, the fire department has required widening a portion of the access driveway; parcel A, which is not part of the subject property. Parcel A property owner has contacted the planning department voicing some concerns. Both property owners would have to be in agreement before permits were issued. He referred to Section 10-2.1102, "driveways shall not be located within 10 feet of any property line except as necessary for sight access or common driveways." This existing driveway was approved in 1979 by the Site Development authority. Because it was approved, staff only recommended removal of the non required portions of the driveway. If this was a major addition or new construction, staff would have required the driveway to be brought into full conformance with this Section. He indicated that the Commission has the discretion to allow the paving to stay as the applicant has requested.

Discussion ensued regarding the open space easement versus the storm drain easement as they pertain to usage. The storm drain easement as described in the subdivision map does not speak of wildlife protection or vegetation; the open space easement language would refer to wildlife or vegetation protection. The deck and the request to reduce it by one foot were reviewed as well as the top of bank location. It was clarified that the footprint of the residence is not actually being expanded but enclosed. The 9 foot deck will be the only new piece of footprint to be constructed.

#### OPENED PUBLIC HEARING

Daryl Harris, project architect, requested a lesser setback from the creek. He provided an overview of the property illustrating the constraints of the lot with the creek going right through it. The proposed additions were reviewed. He requested using the storm drain easement as the setback line as it was used when this house was originally built. This would reduce further constraints. Another issue of concern was the request to relocate the AC unit. He would be willing to relocate it; staying on the same sides using the storm drain easement as a definition of setback. He further discussed the request for an open space easement as it would further encumber an already constrained property. He also discussed the driveway reduction as they would prefer not removing the turning area as it would make it extremely difficult to maneuver into the side entry garage. They would be willing to reduce some development area to the rear, returning it to vegetation. The fire department had two requirements; sprinkling and widening the driveway to the bridge with some discussion regarding tapering back so someone does not run off the bridge.

Ann Graham, property owner since 1984 stated the sole purpose for the remodeling was to rehab the building, improve the landscaping, bringing it up to date, and adding a bedroom and bath downstairs for their older days. When they developed the plan, they thought they were within all of the conformance features. She voiced issues with the pavement which would makes backing out difficult (tight space). She wanted to keep the pavement they have for turnaround possibilities and improved visibility getting in and out of the driveway (safety issues). They were also trying to understand what the City wants out of the added open space easement request. It was their understanding when they bought the lot that they had the storm drain easement and nothing could be built or done to that side of the property. Also, that whole area is

in the flood plane and has flooded twice since purchased. It was never their intention to build anything there or do anything to that side of the property because they can't. Additionally, the fire department requires that they plow that field to keep the brush down (fire hazard) which they have done every year. They asked for clarification on why, in addition to the storm drain easement, do they need an open space easement. She asked what the Town intends for the easement that is not already being accomplished by the storm drain easement and the flood plain. The open space easement would be redundant. Their remodel is requiring them to take out a permit to widen the driveway to meet the Fire Department requirements. The neighbors have concerns regarding being reassessed for the improvement to their property.

Ken Graham, applicant, felt that the project is totally conforming. The storm drain easement is 55 feet wide and per Fire Department requirements they need to clear the field. He requested more guidance regarding the request for an open space easement.

Roger Spreen, Chairman-Open Space Committee, stated that the Town's goal is to protect all of the major, significant native/natural environmental habitat areas specifically around creeks with other open space easements. The applicants are correct in that it is redundant in many ways because you can't place structures in that 25 foot zone. This is not increasing any area of zone protection but open space easements are State code legislative techniques for defending natural areas. You would not be doing anything differently than you are doing today. There is no public access in the open space easement; it prevents construction or removing of trees. This is not unusual as it is something they put on top of any water way and there should not be any reduction in use for the homeowners. They have made allowances for plowing on properties. This can be added to the wording of the agreement. The Planning Director clarified that the only type of fence allowed in an open space easement would be a split rail type fence but not across or through creeks.

Sandy Humphries, Environmental Design Committee, stated that the committee recommended that the area not be disked within the 25 foot setback. What you are trying to do within this easement is to allow it to remain as natural as possible. The fallen leaves should stay under the trees as you want the trees to feed themselves.

Richard Horton, owner of parcel A, voiced support of the proposal. He was concerned with widening the driveway as he may be liable since he owns the property. He discussed the tapering of the driveway or just keeping it as is. He also discussed fencing around the applicant's pool area and the play structure which the applicants are planning to remove.

Mr. Pratt discussed the proposal to remove concrete voicing concern with safety and driving off the side. He felt that the tapering was a good idea. He clarified Mr. Horton's request for a fence by the pool as he has young children who might wander into the pool area.

Margo Pratt, neighbor, stated that if the extension of the driveway is not tapered it will require engineering at the very edge of the creek bank which would be very obtrusive on the open space. When she spoke to Ryan Rucker with the Fire Department he was talking of tapering of 3' to 4'. She felt 3' to 4' was minimal.

## CLOSED PUBLIC HEARING

Commissioner Clow indicated that this project started with a minor remodel within the envelope of their house then spun out of control with the flood people, fire department, and open space requirements. Much of this should be grandfathered. However, where they are adding to the house where they already had a deck he felt it was within the envelope of the house. Similarly, for the air conditioner units, if they are actually closer to the house then they were before, he would be supportive (concept of grandfathering). The only thing he would not support is the 8 foot deck, requesting bringing it back to 7 feet. Regarding the asphalt on the driveway, again in terms of grandfathering, he felt the surface of the driveway is already there and he would not ask them to change where the driveway is just because they are doing a remodel somewhere else. He further discussed the open space requirement and the various comments from Roger Spreen and Sandy Humphries. In this case he would leave out the open space easement requirement because he believed they were already meeting that requirement with the 25 foot requirement from creeks. If at some point an open space easement was taken, he would allow disking. He voiced support of the project, staying within the envelope of the current house, making a big improvement on the property without having an impact on the neighbors. He also voiced support of the tapering of the road leading in.

Commissioner Collins concurred with the previous speaker. For a 682 square foot remodel, it has opened up many issues. She would support the project as submitted except for the AC unit which should not be in the setback. The applicants should not be required to remove any of the concrete. She would agree that the driveway should be left as well; however, the fire department has the authority (requested tapering). She agreed with staff that the open space easement is important and the Town is asking for the same on every project. This is a Town policy to improve and create more protection of wildlife habitat. For clarification, she noted that a pathway cannot be put on the site without going through the required process.

Commissioner Kerns also supports this application. He felt they have done a good job with what they have. He supports portions of the house that are within the setback areas closer to the creek. Regarding the concrete, it is already there and they should be allowed to keep it (grandfathered) and it helps the turn around, getting in and out of the garage especially since they have repositioned the garage doors. The AC unit, since no one can see it, should be left where it is. The deck should be moved back one foot. He felt that they should have an open space easement allowing for disking in accordance with the fire department request. Tapering the roadway needs to be done.

Commissioner Carey was in agreement to most of the previous comments. He questioned fencing around pools irregardless of any construction going on (subject to building code requirements). He would support a 10 foot setback from the creek bank certainly for the deck; he can go either way regarding the AC unit. He felt it was important to require the open space easement. If the fire department requires disking, the Town should allow it. He felt the current driveway was okay because it is already legal non-conforming and he would support the tapered design of the front of the driveway suggesting that they determine whether they can taper it back 10 feet from the creek bank to be consistent with no construction within 10 feet of a creek bank. He voiced support of the project.

Chairman Cottrell also voiced support of the project with the followings changes: deck reduced from 8 feet to 7 feet; leave the AC unit as is; require an open space easement; agreed with the tapering of the driveway; leave the concrete and the existing driveway as it is; and the property owners should fence the pool area.

**MOTION SECONDED AND PASSED:** Motion by Commissioner Clow and seconded by Commissioner Kerns to approve the Site Development Permit for a 682 square foot addition and major remodel which includes 236 square feet added to the second story; Lands of Graham, 2344 Old Page Mill Road, with the following additions/changes to the conditions of approval: leave the driveway pavement as is; recommend tapering along the asphalt of the driveway per fire department approval but tapered so people are not encouraged to drive into the bridge; the 8 foot wide deck shall meet the 10 foot setback requirement; the new AC unit will be closer to the building; require the applicants to meet the requirements regarding fencing around a pool or fencing the southwest corner of the property to complete the gap in the existing fence; and granting an open space easement to the Town. Removal of vegetation as required by the Fire Authority shall be allowed.

AYES: Chairman Cottrell, Commissioners Carey, Collin, Clow & Kerns  
NOES: None

This approval is subject to a 23 day appeal period.

3.2 LANDS OF GOESE, 13480 Wildcrest Drive (254-05-ZP-SD); A request for a Site Development Permit and a development area credit pursuant to the Town's Development Area Policy for a 1,637-square-foot array of free-standing solar panels (staff-Leslie Hopper);

Staff introduced this item by reviewing the history of the property (new residence) and the request to install solar panels near the open space easement and behind the setback areas. She provided an over view of the site with the aid of a PowerPoint presentation. The total area of panels would be 1,637 square feet with a southwest exposure for optimum efficiency. There would be a total of approximately 25 concrete piers that are 8" in diameter. The panels will be black with a reflective coating to reduce glare. The system is sized to produce 100% of the home's power needs. The approved home and development including the pool has used up most of the development area available for the project. If the solar panels are counted as development area without granting any exemptions, the solar panels would exceed the MDA by 1,543 square feet. The Environmental Initiatives Committee has been working on an ordinance that would provide incentives for the development of solar power and would provide a credit of 500 square feet for projects with the PV Systems. In a previous action, the Planning Commission granted development area credit for the Malavalli project at 27500 La Vida Real (8 acre site). In that case the solar panels would exceed the MDA by 2,822 square feet. The solar panels for the Malavalli project comprised 1% of the overall lot area; the Goese project is 2% of the overall lot area. The Commission granted the credit based on the fact that the panels were only a small percentage of the total area and would not impact the natural features of the land. Staff believes it is important that the Commission set a standard that they can apply uniformly to all projects as there will be

visual and aesthetics impacts involved with these projects. Two neighbors have voiced their concerns regarding the Goese project. Staff recommends approval for the installation of solar panels subject to a development area credit for free-standing solar panels only, not to exceed 1% of the net lot area (826 square feet), based on the recommended findings and subject to the conditions of approval. She felt some of the solar panels can be placed on the roof, if possible. The alternative recommendation by staff was to deny the requested permit and direct staff to develop a proposed development area policy for free-standing solar panels that can be uniformly applied to all properties.

#### OPENED PUBLIC HEARING

Brad Blackman, applicant's representative, introduced his project team who were available for questions. The location and size of the solar panels is absolutely the smallest they could possibly be. He stated that he would not be presenting this had he not felt it would be well received. He was at the Malavalli hearing and did not hear the Commission mention or the minutes reflect that the Commission made their decision on a 1% rule. At that meeting the Planning Director recommended exempting the MDA completely and counting only the footings. Their footings measure 9 square feet. Also, the footprint of the home is only 5,000 square feet which includes the garage (800 square feet). The footprint on the property is extremely small. If the Commission simply grants to them what they granted to Malavalli in December (count the footings), they will screen and commit themselves to making their neighbors as happy as possible. They will even consider at a greater expense to Mr. Goese, re-arranging some of those panels to make them two rows, a little longer, picking up the sun earlier which can be screened easier. If the Town is committed to promoting solar power the 1% rule will not help anyone as the average home on a one acre parcel maxes out their MDA. mentioned "warm floors" which need a development exemption. The Commission, when reviewing the Lands of Malavalli considered exempting or giving credit to required driveways. In their case, they have a 2,100 square foot driveway; 1,800 square feet is a mandatory fire truck turnaround that was not present on that property before. A delay for this project to allow time to clarify Town policies would involve delaying the contract with the solar panel company with prices going up screening time delayed.

Mark Byington, owner of Cobalt Power Systems, presented a PowerPoint presentation (Attachment 9) covering the following items: a 6,000 square foot house as it relates to energy level and cost of 10 years of electricity from PG&E; designing a PV system for this house, using every cost incentives available; roof mount versus ground mount; maximum size system and the minimum size system; cost effective (72% reduction of electric bill); and recommendations being 2% to 3% of the lot size. He further discussed MDA relief noting that a 500 square foot development exemption will not encourage anyone; 1,000 square feet is border-line. He would recommend 1,500 square feet. Screening and careful site selection can help.

Tom Klope, landscape architect, provided photographs indicating the location in the field. Looking from a neighbor's house, the array is approximately 40' x 40'. The easiest way to screen from the down hill view would be to separate it or string it out, instead of 40' x 40', some other dimension, parallel with the contours but still with the alignment that is necessary for the maximum gains for these panels. Within the open space easement below them, they can plant

oaks or similar trees which will block the sight line. This could be a part of the landscape screening that takes place later in the process.

Commissioner Kerns asked if they could plant trees within the conservation easement for screening. Klope responded with oaks (24" box sizes) in time (3 or 4 years) they would provide screening.

Commissioner Kerns asked if they plant trees further down in the open space easement, would it be possible to screen these panels at the initial time. Mr. Klope indicated they would have to study this. The 40 foot dimension going up the hill exaggerates the view so it would be better to make the vertical dimension less and spread it out longer, if it is feasible with the layout with the photo array system. Just like screening a house, they are not asked to screen it entirely at the beginning. It will just take some time. Mr. Blackman indicated that they had looked at using 20' x 80' panels which would give the same square footage and provide effective screening substantially easier. Their concern at the time was planting in the open space easement. If this is being encouraged they would be happy to work with staff to plant native oaks.

Commissioner Carey asked why the solar panels were not a part of the original plan. Mr. Blackman indicated that they were discouraged to bring it in at that time. It was a part of their original plan, both the vineyard and the solar panels. However, they withdrew them very early in the planning process as they did not have the MDA. After the Malavalli project and the renewed interest in solar panels, it made sense to bring in the application.

Howard Le, Atherton Court, stated he was one of the two property owners directly in line of the solar panel project. He provided a photo from the second story solarium out of his master bedroom. He would like to work with the applicants to find a way to mitigate this view but it may be difficult as he is 20 feet higher than this property. They have been living in this house since 1987 and bought it because of the rural nature. They have solar panels on their property which are not visible. He understands this is energy efficient; however he is directly impacted by this proposal. We would be willing to work with the applicants and the challenge when his property is 20 feet higher than what they are considering.

Vazgen Babatab, Atherton Court, had previously provided a letter of concern regarding the unsightly placed solar panels (Attachment 7). The panels can be seen from his driveway, front door entrance, deck, pool area and one of the bedrooms. He had great concern regarding the views from these areas and he was not sure the panels will enhance what he deems his existing scenic country views. He reviewed photos of the site.

## CLOSED PUBLIC HEARING

Commissioner Carey recognized the various points of view. Clearly solar panels can have an impact on the character of the Town; also an impact on neighbor's views. In general, he supports the proposal but did not feel they had a clear policy in Town that they can really apply to this case. He would ask staff or Environmental Initiatives Committee to draft a proposal as soon as possible to address some of these issues. It is clear they need some type of sliding scale for MDA credit rather than a flat 500 square foot credit. There are some unknowns. He would be hesitant

to approve this project, preferring to wait for some policies to be in place that would benefit even these applicants.

Commissioner Kerns felt this situation was difficult as he very much supports solar panels in Town. Based on the work shown by Mark Byington, most houses that are 6,000 square feet will need 1,500 square feet of panels to get 90% plus usage. He agreed that they do need ordinances to make it clear what would be allowed. He felt this project could be screened, configured in a more elongated fashion, with some screening below. He would like to approve this application allowing the exemption for the panels but requiring at least 50% of the panels be screened initially. He would also encourage staff to develop some better ordinances and requirements to be used in the future. They should encourage people to use solar panels.

Commissioner Collins felt they should support this application as it would be months in creating a policy. She did feel there should have been a better discussion with the neighbors and developers as to what could be done (working together at an earlier stage prior to public hearing).

Commissioner Clow disclosed that he had previously spoken to Brad Blackman about this project and probably encouraged him to pursue the panels. He felt the relevant issue was how visible is it to the neighbors. When reviewing the Malavalli project, they heard that the panels were not visible to the neighbors. He was very support of allowing a MDA allowance for solar arrays. He felt that they could to something more on the lines of an 80' x 20" panels with tree screening to address the concerns of the neighbors regarding impacts of their natural views, maintaining the rustic quality of the Town which everyone values and at the same time have the benefits of solar arrays. He felt they should give full credit to MDA for the project. This project should go forward with 80' x 20' panels and cooperate with the applicants regarding planting native oaks in the open space easement to create screening for the neighbors. A precedent to set for the future is that the MDA should not be getting in the way of people being self sufficient with solar. Also, not creating terrible views for the neighbors by allowing people creating solar panels wherever they want (allow some discretion on location). He would not want a 1% limitation; 3% is fine although he would not impose a limitation. The limitation should be based on the views of the neighbors.

Commissioner Carey, for the record, stated it was important to note that there are many reasons they have MDA besides floods, down hill, etc. It sounds like Commissioner Clow would allow limitless solar panels as long as the neighbors cannot see it. He was not sure what the limits should be but the previous comments are going beyond what he would want people to assume by reading the record.

Commissioner Clow responded stating that if they had vast solar arrays that the neighbors cannot see, it would be acceptable to him.

Commissioner Carey would disagree that they do not have any policy that would suggest the previous statement. Commissioner Collins concurred.



Chairman Cottrell agreed in that the Town needs a policy regarding solar panels. If you just consider smaller lots, there has to be a limitation somewhere as to location, etc. He felt he could support this particular project with the provision already discussed using 80' x 20' or some variation so it can be landscaped with native oaks, tall enough to hide the panels in a relatively short amount of time (sooner than 5 years). There is no point holding up this project just because they do not have a Town policy. He voiced support of the project.

**MOTION SECONDED AND PASSED:** Motion by Commissioner Kerns and seconded by Commissioner Collins to the Site Development Permit for solar panels, Lands of Goese, 13480 Wildcrest Drive, subject to the conditions of approval and with the following requirements: the solar panels as proposed be reconfigured in a 20' x 80' configuration or comparable to allow landscape screening and to require landscape screening be installed initially with a 50% screening of the panels from the adjacent neighbors as an objective.

AYES: Chairman Cottrell, Commissioners Collin, Clow & Kerns  
NOES: Commissioner Carey

This approval is subject to a 22 day appeal period.

Brief break at 9:15 p.m.

4. OLD BUSINESS-none

5. NEW BUSINESS

- 5.1 Discussion to consider amending Zoning and Site Development codes with regard to effective date, appeal, and Council review of actions for Zoning and Site Development Permits (Sections 10-1.1108-1110, 10-2.1305 and 10-2.1313) (staff-Debbie Pedro).

This item is to consider a review of the ordinances and appeal dates which are not consistent between Site Development, Fast Track and Planning Commission reviews. Staff is recommending that all appeal periods be 22 days to be consistent across the board. Staff is recommending a uniform appeal period for all types of projects.

**MOTION SECONDED AND PASSED BY CONSENSUS:** Motion by Commissioner Clow, seconded by Commissioner Collins and passed by consensus to direct staff to prepare text amendments to the ordinances as determined to be necessary.

- 5.2 Proposed Amendment to the Basement Ordinance (Section 10-1.208) (staff-Brian Froelich)

Planner Froelich stated the purpose of this item is to clarify the basement definition with regard to basement ceiling. Particularly, "ceiling height" has been an issue with at least two recent projects and during other pre-application meetings for proposed or modified basements. By the

use of a PowerPoint presentation, he clarified the issues with the current basement definition. Commissioner Kerns asked if there was also an issue with attics and should they be considering attics at the same time and reviewing basement definitions.

MOTION SECONDED AND PASSED BY CONSENSUS: Motion by Commissioner Carey, seconded by Commissioner Kerns and passed by consensus to direct staff to prepare text amendments to the ordinances as determined to be necessary.

6. REPORT FROM THE CITY COUNCIL MEETING

- 6.1 Planning Commission Representative for February 9<sup>th</sup>, Commissioner Collins, reported on the meeting.
- 6.2 Planning Commission Representative for February 23<sup>rd</sup>-Cancelled
- 6.3 Planning Commission Representative for March 9<sup>th</sup>-Commissioner Cottrell
- 6.4 Planning Commission Representative for April 13<sup>th</sup>-Commissioner Kerns

7. APPROVAL OF MINUTES

- 7.1 Approval of February 2, 2006 minutes

PASSED BY CONSENSUS: To approve the February 2, 2006 minutes.

8. REPORT FROM FAST TRACK MEETING- FEBRUARY 14, 2006

- 8.1 LANDS OF ALLEGRA, 26721 Taaffe Avenue (202-05-ZP-SD-GD); A request for a Site Development Permit for a 1,141 square foot first and second story addition (maximum height 24'4" feet) (staff-Debbie Pedro). Approved with conditions.

9. REPORT FROM SITE DEVELOPMENT MEETING- FEBRUARY 14, 2006

- 9.1 LANDS OF IRANI, 24008 Oak Knoll Circle (257-05-ZP-SD); A request for a Site Development Permit for a landscape screening plan (staff-Debbie Pedro). Approved with conditions.

10. ADJOURNMENT

The meeting was adjourned by consensus at 9:40 p.m.

Respectfully submitted,

Lani Smith  
Planning Secretary